

MEMORANDUM

Agenda Item No. 4(A)

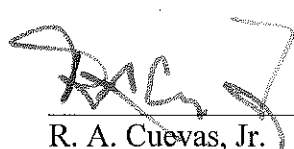
TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 3, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance relating to Road
Impact fee; providing for
reimbursement to feepayer
for Road Impact Fee
study ("study") under certain
circumstances; providing for
review of rejection of study or
amount of reimbursement;
amending Section 33E-9 of the
Code

The accompanying ordinance was prepared and placed on the agenda at the request of Prime
Sponsor Commissioner Esteban L. Bovo, Jr.



R. A. Cuevas, Jr.
County Attorney

RAC/cp




MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 3, 2014

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 4(A)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(A)
9-3-14

ORDINANCE NO. _____

ORDINANCE RELATING TO ROAD IMPACT FEE;
PROVIDING FOR REIMBURSEMENT TO FEEPAYER FOR
ROAD IMPACT FEE STUDY ("STUDY") UNDER CERTAIN
CIRCUMSTANCES; PROVIDING FOR REVIEW OF
REJECTION OF STUDY OR AMOUNT OF
REIMBURSEMENT; AMENDING SECTION 33E-9 OF THE
CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE, AND AN
EFFECTIVE DATE

WHEREAS, Section 33E-9 of the Code of Miami-Dade County authorizes a feepayer to utilize an independent fee computation study ("study"), which, if approved by the Public Works and Waste Management Director, determines the amount of the Road Impact Fee; and

WHEREAS, in the annual review of the Road Impact Fee such study may be utilized to modify the impact fee schedule set forth in Section 33E-8 of the Code of Miami-Dade County; and

WHEREAS, if the County utilizes such a study to amend the impact fee schedule, it is appropriate to reimburse the feepayer for reasonable and customary charges incurred in preparing the study,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33E-9 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33E-9. Fee computation by independent study.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

The feepayer may elect, either prior to or subsequent to paying the scheduled impact fee (Section 33E-8), to utilize an independent fee computation study pursuant to the formula set forth in Section 33E-7(a). The feepayer shall provide the >>Director of the<< County >>Department of<< Public Works >>and Waste Management or successor department<< ~~[[Director]]~~ notice of intent to utilize an independent fee computation study prior to, but no later than, the time of application for a building permit. All such studies initiated after the issuance of a building permit shall be completed and submitted to the >>Director of the Department of<< Public Works >>and Waste Management or successor department<< ~~[[Director]]~~ within six (6) months of issuance of building permit. Nothing within this section shall allow a building permit for development activity to be issued without the payment of a roadway impact fee as provided for in Section 33E-6 herein.

- (a) If the feepayer elects to utilize an independent fee computation study, the feepayer shall, at his own expense, prepare and present to the >>Director of the Department of<< Public Works >>and Waste Management or successor department<< ~~[[Director]]~~ such a study that shall document the basis upon which the value of each of the components of the fee formula set forth in Section 33E-7(a) was determined. The feepayer shall follow the impact fee study methodology contained in the impact fee manual. Subjects of the study shall include the following unless determined otherwise by the >>Director of the Department of<< Public Works >>and Waste Management or successor department<< ~~[[Director]]~~:

- (1) Trip generation rates;
- (2) Average vehicle trip length;
- (3) New vehicle trip rates;
- (4) Non-transit trip percentages.

- (b) The feepayer shall, at the time the independent fee computation study is submitted to the >>Director of the<< County >>Department of<< Public Works >>and Waste Management or successor department<< ~~[[Director]]~~, pay to the >>Director of the<< County >>Department of Regulatory and Economic Resources or successor department an<< ~~[[Planning and Zoning Director a nonrefundable]]~~ independent study administrative cost in the amount set forth in the impact fee manual to be used solely by the County for the processing and review of the

independent fee calculation study. This amount shall not be credited against the road impact fee payment >>and shall not be refunded, except in accordance with subsection (g) of this section<<.

- (c) The >>Director of the<< County >>Department of<< Public Works >>and Waste Management or successor department<< ~~[[Director]]~~ shall determine if an independent fee computation study:
 - (1) Adheres to the impact fee formula set forth in Section 33E-7(a);
 - (2) Provides complete, thorough, and accurate information; and
 - (3) Is prepared by an individual or entity qualified to perform Traffic Engineering and Operations Studies in accordance with the standards set forth in Rule 14-75.003 of the Florida Administrative Code.
- (d) Upon approval of the independent fee calculation study by the >>Director of the<< County >>Department of<< Public Works >>and Waste Management or successor department<< ~~[[Director]]~~, based on his determination that the conditions described in Section 33E-9(c) are fully met, the feepayer shall pay the amount of the fee so computed.
- (e) Should the >>Director of the<< County >>Department of<< Public Works >>and Waste Management or successor department<< ~~[[Director]]~~ determine that the conditions described in Section 33E-9(c) are not fully met by the independent fee study he shall issue a letter to the applicant stating the deficiencies and his intent to reject the independent fee calculation study unless the deficiencies are corrected. If the >>Director of the<< County >>Department of<< Public Works >>and Waste Management or successor department<< ~~[[Director]]~~ determines that the deficiencies in the independent fee study have not been corrected within sixty (60) working days from the date of the letter of intent, he shall issue a letter rejecting the independent fee study.
- (f) Any appeals from a decision of the >>Director of the<< County >>Department of<< Public Works >>and Waste Management or successor department<< ~~[[Director]]~~ to reject an independent fee study because of deficiencies shall be >>filed with the Director of the Department of

Regulatory and Economic Resources or successor department within 30 days of the decision and shall be<< reviewed and decided by the County Developmental Impact Committee Executive Council [~~], pursuant to the procedures set forth in the adopted impact fee manual~~].

- (g) In his annual review of the impact fee ordinance the County >>Mayor<< [[Manager]] may recommend to the Board of County Commissioners that the type of use and fee rates approved pursuant to an independent study prepared under this section be added to or substituted in the impact fee schedule contained in Section 33E-8. >>In the event that the impact fee schedule is amended as a result of an independent study that is determined to be of general applicability, the feepayer who funded that study shall be reimbursed for the reasonable and customary charges for that study (excluding any attorney's fees) as determined by the Director of the Department of Public Works and Waste Management or successor department. Should the feepayer disagree with the amount of the reimbursement, the feepayer may appeal such decision in the same manner as the rejection of an independent fee study as set forth in subsection (f) above.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

A handwritten signature in dark ink, appearing to be 'DAK', written over a horizontal line.

Prepared by:

Dennis A. Kerbel

Prime Sponsor: Commissioner Esteban Bovo, Jr.